

REMARKS

Upon entry of the instant amendment, claims 1-18 will remain pending in the above-identified application and stand ready for further action on the merits.

In this Amendment, new claim 18 has been added, which is based on original claim 1, but with claim 18 being drafted as a method claim. In particular, new claim 18 recites as follows:

*A method of producing a compound semiconductor, which comprises forming on a GaAs substrate a layer of InP crystal or a compound semiconductor crystal whose lattice constant is closer to that of InP than that of GaAs, wherein the crystal is formed on the GaAs substrate via an InGaP buffer layer or an InGaAsP buffer layer having a thickness of not less than 5 nm and not greater than 500 nm.*

Accordingly, the present amendments to the claims do not introduce new matter into the application as originally filed. As such entry of the instant amendment and favorable action on the merits is earnestly solicited at present.

***Restriction Requirement***

The Examiner has required election in the present application between:

*Group I, claims 1-7, drawn to a compound semiconductor; and*

*Group II, claims 8-17, drawn to a method of producing a compound semiconductor.*

**For the purpose of examination of the present application, Applicants elect, with traverse, Group II, Claims 8-17.**

**It is submitted that newly added claim 18 is also encompassed by the elected invention of Group II.**

***Election of Species Requirement***

Further the Examiner has required an election in the present application between:

*Species I(a)*, Embodiment of Figure 1; and

*Species I(b)*, Embodiment of Figure 3.

**For the purpose of examination of the present application, Applicants elect Species I(b), Embodiment of Figure 3 with traverse.**

**Claim(s) 8-18 are directed to the elected species.**

**As acknowledged by the Examiner, no claim is generic.**

***Reasons for Traversal***

Applicants believe that in view of the invention claimed in method claims 8-18, and the invention claimed in product claim 1 are all clearly related and that restriction between, for example, claims 1, 8-9 and 18 should properly be reconsidered. Furthermore, it is submitted that the election requirement set forth by the USPTO is incompatible with the acceptance of the unity of the invention standard in the international phase. In particular, it is submitted that at least instant claims 1, 8-9 and 18 are so linked as to form a single general inventive concept, and as such, Applicants respectfully ask that the outstanding restriction requirement be reconsidered and withdrawn, and that each of pending claims 1-18 be considered at present.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John W. Bailey, Registration No 32,881 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

- ☐ Attached is a Petition for Extension of Time.
- ☒ Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: August 14, 2009

Respectfully submitted,

By 

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